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EASTERN DISTRICT OF CALIFORNIA

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EASTERN DISTRICT OF CALIFORNIA  
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1 Maria Del Carmen Sosa  
2 5552 W. Oak  
3 Fresno, CA 93722

4 UNITED STATES DISTRICT COURT

5 EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION

6 MARIA SOSA & Minor Children, Estate  
7 of MAXIMILIANO SOSA, JR.

Case No.: 1:23-cv-01575 JLT [SAB]

8 MARIA SOSA'S OBJECTION TO  
9 MODIFIED' ORDER RE:  
10 PLAINTIFF'S EMERGENCY EX  
11 PARTE APPLICATION FOR  
12 ORDER ALLOWING PRIVATE  
13 AUTOPSY PRIOR TO  
14 EMBALMING OR FUNERAL

Filed By Fax

14 I, MARIA SOSA ("Mrs. Sosa") hereby object to Plaintiff's Emergency Ex  
15 Parte Application For Order Allowing Private Autopsy Prior to Embalming or  
16 Funeral based on the following objections and legal authority.

17 FACTUAL BACKGROUND

- 18
- 19 1. Maria Sosa ("Mrs. Sosa") and Maximiliano Sosa, Jr. ("Mr. Sosa" or  
20 "Max Sosa, Jr.") married on or about July 11, 2014, in the County of  
21 Fresno, State of California.
- 22
- 23 2. Mr. and Mrs. Sosa share two minor children, who are presently 4 and 2  
24 years old.
- 25
- 26 3. At all times relevant herein, Mrs. Sosa has maintained legal and actual  
27 custody and control of her minor children.
- 28

1  
MARIA SOSA'S OBJECTION TO MODIFIED' ORDER RE: PLAINTIFF'S EMERGENCY EX PARTE  
APPLICATION FOR ORDER ALLOWING PRIVATE AUTOPSY PRIOR TO EMBALMING OR FUNERAL

ORIGINAL

- 1 4. On November 4, 2023, at approximately 3:30 a.m., Fresno Police  
2 Officers were summoned to Mrs. Sosa's apartment complex, located at  
3 5555 N. Dante Avenue, Fresno, California 93722.
- 4  
5 5. Fresno Police Officers, whose identities remain unknown to Mrs. Sosa,  
6 arrived on scene, and entered the apartment for Mrs. Sosa. Shortly  
7 thereafter, Max Sosa, Jr. was fatally shot multiple times by the  
8 responding Fresno Police Officers.
- 9  
10 6. Fresno Police Officers, whose identities remain unknown to Mrs. Sosa,  
11 and/or Paramedics attempted CPR (Cardiopulmonary Resuscitation) for  
12 several minutes following the shooting but were unable to revive Mr.  
13 Max Sosa, Jr. He was pronounced dead shortly thereafter.
- 14  
15 7. The activities undertaken by the unknown Fresno Police Officers  
16 constituted inappropriate seizure of a person under the Fourth  
17 Amendment of the United States Constitution as Decedent Max Sosa, Jr.  
18 was: 1) not acting in the commission of any crime; 2) clearly unarmed at  
19 the time; 3) compliant with the unknown Fresno Police Officers orders  
20 at all times relevant herein.
- 21  
22 8. The unjustifiable use of force by these unknown Fresno Police Officers,  
23 upon Decedent Max Sosa, Jr. constituted excessive and deadly force in  
24 violation of the Fourth and Fourteenth Amendments of the United States  
25 Constitution.
- 26  
27 9. Mrs. Sosa has retained the Law Offices of Steven A. Lerman to  
28 investigate and prosecute a Civil Case against the City of Fresno, and the  
unknown shooting officers for her and her minor children, and the Estate

1 of Maximiliano Sosa, Jr. – to which she is the rightful Successor-In-  
2 Interest.

3  
4 10. Mrs. Sosa anticipates she will file Federal and State Causes of Action  
5 against the City of Fresno and the unknown police officers in the coming  
6 weeks and months.

7 11. Plaintiff's Complaint for Damages and her Emergency Ex Parte  
8 Application seeking relief allowing private autopsy contain numerous  
9 false statements, designed to belittle and demean Mrs. Sosa's character  
10 and person.

11  
12 12. At the time of Decedent's untimely death, Mr. and Mrs. Sosa were  
13 legally married. At no time during the marriage did either spouse file a  
14 Petition for Dissolution of Marriage or Petition for Legal Separation.

15  
16 13. The death certificate [attached hereto as **Exhibit 1**] makes clear that at  
17 the time of Max Sosa Jr.'s death, he was legally married to Maria Del  
18 Carmen Sosa.

19  
20 **OBJECTIONS**

21 Mrs. Sosa objects to Plaintiff's Ex Parte Application for Order Allowing  
22 Private Autopsy Prior to Embalming or Funeral as follows:

23  
24 **A. Plaintiff Lacks Standing to Control the Disposition of Decedent's**  
25 **Remains at Death**

26 At the time of his death, Max Sosa, Jr. did not have any Power of Attorney  
27 or legal document that controls the disposition of his remains at death. Section  
28

1 7100 of the Health and Safety Code establishes rights and duties in the disposition  
2 of human remains, providing:

3  
4 a) "The right to control the disposition of the remains of a deceased  
5 person, unless other directions have been given by the decedent, vests  
6 in, and the duty of interment and the liability for the reasonable cost  
7 of interment of such remains devolves upon the following in the  
8 order named:

9 a. The surviving spouse.

10 b. The surviving child or children of the decedent.

11 c. The surviving parent or parents of the decedent.

12  
13  
14 Based on the fact that Mrs. Sosa was Max Sosa, Jr.'s surviving spouse at  
15 the time of his death, she is entitled to control the disposition of his remains. Mrs.  
16 Sosa does not want to subject her deceased spouse to further desecration and/or  
17 mutilation, but rather expedite the embalment and burial of his remains so that  
18 she and her family may begin to visit him and attempt to continue with the  
19 grieving process.  
20

21 Mrs. Sosa has secured burial arrangements on behalf of Decedent, and has  
22 paid in advance. Decedent Sosa is presently located at Wallin Funeral Home,  
23 where he is ready to be embalmed and prepared for his final rest. Furthermore,  
24 Mrs. Sosa is the surviving biological parent for Decedent's children, who also  
25 maintain greater standing than Plaintiff to determine the disposition of Mr. Sosa's  
26 Jr.'s remains. Based Mrs. Sosa's superior standing, she objects to Plaintiff's  
27 autopsy.  
28

1           **B. Plaintiff's Ex Parte Fails to Articulate Imminent/Irreparable Harm**  
2           **and/or Justifiable Cause to Warrant a Private Autopsy**

3           Mrs. Sosa also objects on the grounds that Plaintiff has not articulated any  
4 justifiable reason to subject Decedent Mr. Sosa, Jr. to a second autopsy. Following  
5 pronouncing Max Sosa, Jr. deceased at the subject apartment complex, he was  
6 transported to the Fresno County Coroner's Office, where an autopsy was  
7 performed by Deputy Coroner Jenny Rene Strong, who determined that Max  
8 Sosa, Jr.'s cause of death was gunshot wounds to his chest, and that his manner of  
9 death was homicide, with the injury occurring as a result of Decedent being shot  
10 by Law Enforcement.  
11

12           Plaintiff's Ex Parte application is completely void of any factual or legal  
13 authority that would warrant the need for a subsequent private autopsy. Moreover,  
14 Plaintiff has failed to allege any real imminent or irreparable harm by allowing  
15 Decedent to be embalmed and buried. Absent, showing some factual or legal need  
16 to subject Decedent to a second autopsy is an abuse of power, and contrary to the  
17 current state of the law. Furthermore, Plaintiff has not provided any specific detail  
18 with respect to when Decedent Mr. Sosa, Jr. would be picked up, who would be  
19 performing the autopsy, where the autopsy is to be performed, the scope and/or  
20 limitations of the autopsy, financial details for autopsy, or when Decedent Mr.  
21 Sosa, Jr. would be returned to the funeral home.  
22

23           Plaintiff's attempt to secure a private autopsy has hindered with Mrs. Sosa's  
24 desire and ability to put her deceased spouse to rest. As stated previously, Mrs.  
25 Sosa has secured burial arrangements for her husband, and has undertaken  
26 financial responsibility for such. Plaintiff's attempt to delay and subject Decedent  
27 to an unnecessary and needless private autopsy interferes with the current  
28

1 contractual arrangement she has with the funeral home, and jeopardizes her  
2 current plans for his burial service and arrangements. Furthermore, Plaintiff's  
3 have not offered nor have they provided any financial assistance for Decedent's  
4 burial service.

5  
6 CONCLUSION

7 For the foregoing reasons, Mrs. Sosa respectfully requests that this Court  
8 deny Plaintiff's Ex Parte Application For Order Allowing Private Autopsy Prior to  
9 Embalming or Funeral.  
10

11  
12 Dated: November 13, 2023

13  
14 By: Maria Sosa  
15 Maria Del Carmen Sosa  
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